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Deposition of THOMAS CLIFTON DEMPSEY taken pursuant to notice at the law offices of Richards, Layton & Finger, One Rodney Square, Third Floor, Wilmington, Delaware, beginning at 10:00 a.m. on Tuesday, May 9, 2006, before Kathleen White Palmer, Registered Professional Reporter and Notary Public.

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18 I stopped in the 400 block of Harrison,
19 mainly because as soon as we got all in that area,
20 those two officers jumped out of their vehicles, and
21 if I entered the intersection, I was afraid I might
22 hit them, so I just stopped short of the intersection,
23 probably about two feet, and I bailed out of my
24 vehicle.

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22 Q. Do you recall whether the lights and siren were

23 left on your car after you exited?

24 A. Yes, they were.

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9 Q. As you looked down the street and you saw the

10 vehicle Smith was driving, were the lights and siren

11 on that car?

12 A. The lights were on. I don't know if the siren

13 was on. I couldn't hear.

14 Q. What about the lights on the two patrol cars

15 following the stolen vehicle?

16 A. I don't recall.

17 Q. You don't necessarily recall hearing sirens

18 from them?

19 A. No. At that point the only siren I was hearing

20 was mine because it was right next to me.

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16 At which time approaching John's car, the
17 vehicle was stopped for -- I noticed -- I observed
18 that the suspect vehicle was stopped for a short
19 amount of time. I observed that several officers were
20 starting to get out of their vehicles behind the
21 suspect car. A feeling that now he was not going to
22 be able to go anywhere now with the fact that the two
23 vehicles were blocking the intersection behind him.

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14 I proceeded-- he was approximately three
15 to five feet away from me at one point. I waited,
16 actually, a second because of a crossfire situation
17 between myself and several officers down the block.
18 Once he started to pass me and I had a
19 better backdrop of buildings and nobody was in the
20 area, I started -- proceeded to fire my handgun at the
21 driver's side window of the vehicle shattering same.

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23 Q. After you exited your vehicle up until the time
24 that the stolen car stopped. So the time period

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1 between when you exited your vehicle on Harrison
2 Street near the intersection of 5th and the time that

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3 the stolen vehicle operated by Harry Smith stopped,

4 did you see any other police officers other than

5 Officers Kurten and Ciritella?

6 A. I saw for a very -- probably a second, if not

7 less than, a few officers getting out of cars behind

8 the suspect vehicle. I don't know who they were or

9 where they went, but I just saw the doors opening and

10 saw officers exiting.

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4 Upon approaching the rear -- or the front
5 of, actually, John Ciritella's vehicle, the suspect
6 vehicle started to proceed forward at actually, for
7 the short distance he had, at a high rate of speed
8 towards John Ciritella. I observed that. I observed
9 John starting to back up from him, attempting to get
10 out of his way, at which time he was also basically
11 heading in my direction, also.
12 I had a vehicle I believed that would
13 protect me at that time, but I had a vehicle between
14 me and the car at that time, so I backed up a little
15 slower than John into the intersection, at which time
16 he was -- what I could observe, he got past John.
17 John had to move out of the way or get hit. And he
18 ran into the -- I believe it was a white Cherokee
19 which I was standing just a few feet behind.

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17 Q. Even with the driver's side front door, was
18 there any point at which during this incident you were
19 able to see directly into the vehicle because your
20 body was actually positioned at the driver's side
21 door?
22 A. Yes.

**For reference made in Brief at paragraph 68, please also see
page 126 of the portion of the Appendix filed Under Seal.**

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13 Where was Mr. Ciritella the next time you

14 saw him shoot his gun?

15 A. John Ciritella and I were pretty much on a

16 parallel course, him on the sidewalk, me on the street

17 on the rest of the situation. I kept him in my

18 peripheral vision at all times mainly to not cause a

19 crossfire situation and hit Officer Ciritella by

20 accident. So I wanted to keep him in my field of view

21 at all times while we both continued to walk up the

22 roadway.

23 Q. Let's use an X3 for Officer Kurten. Where did

24 you first see or where was Officer Kurten when you

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1 first saw him shoot his gun?

2 A. I never did.

3 Q. You never saw him shoot his gun?

4 A. No, no.

5 Q. Do you recall seeing him after you got out of

6 your car?

7 A. The only time I observed Kurten was parking,

8 exiting, because he was the main reason I decided to

9 park here because he exited, I didn't want to hit him.

10 And he ran to the front. And that's the last time I

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11 saw Matt Kurten.

12 Q. Okay. But then is it fair to say that from the
13 time that Mr. Kurten exited his vehicle and moved in
14 the direction of 5th Street or onto 5th Street, that
15 you didn't see him again until you got down to the
16 police station?

17 A. True.

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23 Q. When you arrived back at central, what
24 happened?

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1 A. I was escorted to the detective conference room
2 or we were told to go to the detective conference
3 room. Lieutenant Mulrine took us up there and pretty
4 much at that point along we were in there awaiting our
5 interviews. And that's pretty much all we did. We
6 just sat in there awaiting our interviews.

7 Q. Your interview occurred about 1:00 in the
8 morning?

9 A. I can't give you -- I know it was after one,
10 but I can't give you exact time.

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8 Q. Did you write a report?

9 A. No.

10 Q. Why?

11 A. I was told not to.

17 Q. Any other situations in which you were told you

18 didn't have to write a report?

19 A. No.

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7 Q. Do you know, was there any point at which you

8 stopped firing your weapon once you started firing?

9 Did you pause at all, or did you just fire 13 shots?

10 A. I fired 13 shots until the vehicle stopped and

11 until I locked and loaded, which happened at the exact

12 same time.

13 Q. So you fired it 13 shots in a row without

14 pausing?

15 A. Correct.

16 Q. Why did you fire 13 shots in a row without

17 stopping?

18 A. Because 13 shots, he was still not stopping.

19 And if I reloaded and he was continuing, probably

20 would have been more. But as soon as I reloaded, he

21 stopped. The car had started to back up.

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22 Q. Were you able to see any portion of his body as
23 you were firing?

24 A. His head and shoulders.

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22 Q. So you were walking up the hill firing your
23 gun?

24 A. We don't run firing our gun; we walk.

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23 At paragraph 25 on page 4 of the answer
24 filed under your name, on your behalf, it says: "It

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1 is admitted that Defendants Ciritella, Dempsey, and
2 Kurten ran up the hill and fired their weapons."

3 Is that correct or not, sir?

4 A. I never run anywhere.

5 Q. Did you see Defendant Ciritella run up the
6 hill?

7 A. No.

8 Q. Did you see Defendant Kurten run up the hill?

9 A. I didn't see Kurten.

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21 Q. Who else did you see other than Officer
22 Ciritella and Harry Smith as you're shooting 13

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23 bullets?

24 A. No one else.

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1 Q. Did you see any other police officers at all?

2 A. No.

3 Q. Did you see the woman on the porch who ended up

4 getting shot?

5 A. No.

6 Q. Did you see the little girl who was playing on

7 the sidewalk?

8 A. No.

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9 Who told you he had a shotgun?

10 A. No one has to tell me that. I'm a supervisor

11 for the City of Wilmington for the street that those

12 officers were on. They all take shotguns out to their

13 vehicles.

14 Q. So is it fair, sir, no one told you he had a

15 shotgun; correct?

16 A. I am -- I'm aware that my patrol officers have

17 shotguns in their vehicles or they are not properly

18 equipped.

19 Q. I'm not disagreeing with you that the proper

20 equipment for a police vehicle might be a shotgun.

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21 My question simply is: Isn't it true that

22 at no time did someone tell you --

23 A. They didn't have to tell me that.

24 Q. You walked up to the car after Mr. Smith was

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1 shot; correct?

2 A. Yes, I did.

3 Q. Did you see a shotgun in the car?

4 A. No, I did not.

5 Q. So he didn't have a shotgun, did he?

8 A. I don't know that. He was supposed to have a

9 shotgun. That vehicle is supposed to have a shotgun.

10 Put it that way.

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1 Q. Well, why didn't you ask?

2 A. I'm sorry?

3 Q. Why didn't you ask?

4 A. I don't have to ask. I'm the supervisor of

5 that platoon. All my officers take shotguns out to

6 their cars.